

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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Court Minutes

February 25, 2008

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Davis, Associate Justice; Butz, Associate Justice; Cantil-Sakauye, Associate Justice; and Harper, bailiff.

C053673 BELL v. ADELBERG ASSOCIATES MEDICAL GROUP

Cause called. John Mounier argued for appellant. Michael A. Bishop argued for respondent. Cause submitted.

At 9:57 a.m., the court recessed. At 2:04 p.m., the court reconvened with Scotland, Presiding Justice; Blease, Associate Justice; and Davis, Associate Justice.

C055359 THE PEOPLE v. SHORT

Cause called. K. Thomas Smith Jr. argued for appellant. Alison Elle Aleman, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:18 p.m., the court recessed. At 2:22 p.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Morrison, Associate Justice.

**C053142 THE SUPERIOR COURT OF SACRAMENTO COUNTY v. COUNTY OF
SACRAMENTO et al.**

Cause called. Michele Bach, Deputy County Counsel, argued for appellants. Beth S. Brinkmann argued and Melvin Kennedy appeared only for respondent. Cause submitted.

At 2:57 p.m., the court recessed. At 3:03 p.m., the court reconvened with Sims, Associate Justice; Davis, Associate Justice; and Morrison, Associate Justice.

**C054596 VOICES FOR RURAL LIVING et al.; EL DORADO COUNTY
v. DEPARTMENT OF TRANSPORTATION v. LAKES ENTERTAINMENT
INC. et al; SHINGLE SPRINGS BAND OF MIWOK INDIANS, etc.**

Cause called. Stephen C. Volker argued and Joshua A.H. Harris appeared only for appellants. Michael H. Zischke argued for respondent Department of Transportation. Nicholas Churchill Yost argued for respondents Lakes Entertainment et al. Michael V. Brady argued for respondent El Dorado County. Cause submitted.

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February 25, 2008 continued

At 3:32 p.m., the court recessed. At 3:36 p.m., the court reconvened with Sims, Associate Justice; Davis, Associate Justice; and Morrison, Associate Justice.

C054597 VOICES FOR RURAL LIVING et al. v. DEPARTMENT OF TRANSPORTATION et al.; LAKES ENTERTAINMENT INC. et al.

Cause called. Stephen C. Volker argued and Joshua A. H. Harris appeared only for appellants. Michael H. Zischke argued for respondents Department of Transportation. Nicholas Churchill Yost argued for respondents Lakes Entertainment et al. George Spanos, Deputy Attorney General argued for respondents California Transportation Commission.

At 4:22 p.m., the court recessed until February 26, 2008, at 9:30 a.m.

C054408 THE PEOPLE v. FLEMING (Not For Publication)

The judgment is affirmed.

BUTZ, J.

We Concur: Davis, Acting P.J.
Cantil-Sakauye, J.

C054675 JOHNSON v. JOHNSON (Not For Publication)

The judgment is affirmed. Cornell shall reimburse Muriel for her costs on appeal. ... Muriel's requests for sanctions for a frivolous appeal is denied.

SCOTLAND, P.J.

We Concur: Sims, J.
Raye, J.

C053918 NOBLE et al. v. DRAPER et al. (Certified For Publication)

THE COURT:

The opinion filed January 31, 2008, is modified...

This modification does not change the judgment.

SIMS, Acting P.J.

We Concur: Morrison, J.
Cantil-Sakauye, J.

C054145 HULINGS v. DEPARTMENT OF HEALTH SERVICES

BY THE COURT:

Appellant's petition for rehearing is denied.

BLEASE, Acting P.J.

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At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Davis, Associate Justice; Robie, Associate Justice; and Horner, bailiff.

C055614 CALIFORNIA HIGHWAY PATROL et al. v. THE SUPERIOR COURT OF SACRAMENTO COUNTY; WALKER et al.

Cause called. Catherine Woodbridge Guess, Deputy Attorney General, argued and J. Patrick McCarthy appeared only for petitioners. Edward P. Dudensing argued for real party in interest C. Walker. Gerald D. Langle argued for the real party in interest A. Walker. J. Patrick McCarthy appeared only for real party in interest S. St. Pierre. Cause submitted.

At 10:00 a.m., the court recessed. At 10:03 a.m., the court reconvened with Blease, Associate Justice; Robie, Associate Justice; and Butz, Associate Justice.

C054374 BERNARD BURKS v. KAISER FOUNDATION HEALTH PLAN, INC. et al.

Cause called. Kennedy Richardson argued for appellants. Jeffrey Isaac Ehrlich argued for respondent. Cause submitted.

At 10:23 a.m., the court recessed. At 10:29 a.m., the court reconvened with Nicholson, Associate Justice; Raye, Associate Justice; and Butz, Associate Justice.

C053730 GAYLE S. v. Daniel J.; Nancy P.

Cause called. Daniel James argued for appellant in pro per. Jay-Allen Eisen argued for Respondent. Cause submitted.

At 10:29 a.m., the court recessed. At 10:49 a.m., the court reconvened with Nicholson, Associate Justice; Raye, Associate Justice; and Butz, Associate Justice.

C047726 THE PEOPLE v. ZARAZUA et al.

Cause called. Richard A. Levy, court appointed counsel, argued for appellant C. Zarazua. Heather MacKay, court appointed counsel, argued for appellant J. Ramirez. Madeline McDowell, court appointed counsel, argued for appellant S. Zarazua. Paul E. O'Connor, Deputy Attorney General, argued for respondent. Cause submitted.

At 12:10 p.m., the court recessed. At 2:00 p.m., the court reconvened with Scotland, Presiding Justice; Davis, Associate Justice; and Robie, Associate Justice.

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February 26, 2008 continued

C052872 MARINE FORESTS SOCIETY et al. v. CALIFORNIA COASTAL COMMISSION

Cause called. Lisa Trankley, Deputy Attorney General, argued for appellant and cross-respondent. Ronald A. Zumbrun argued and Angela C. Thompson appeared only for respondents and cross-appellants. Cause submitted.

At 2:36 p.m., the court recessed. At 2:41 p.m., the court reconvened with Sims, Associate Justice; Davis, Associate Justice; and Morrison, Associate Justice.

C053200 NILES FREEMAN EQUIPMENT et al. v. RON JOSEPH, as Director, etc., et al.

Cause called. Gene Livingston argued for appellants. Ray Sardo appeared only for appellants. Geoffrey L. Graybill, Deputy Attorney General, argued for respondents. Cause submitted.

At 3:13 p.m., the court recessed. At 3:19 p.m., the court reconvened with Nicholson, Associate Justice; Raye, Associate Justice; and Morrison, Associate Justice.

**C054376 CITRUS HEIGHTS INFRASTRUCTURE PAY-AS-YOU-GO
v. CITRUS HEIGHTS CITY COUNCIL et al.; GSU COMPANY et al.**

Cause called. Michael N. Garabedian argued for appellant. Edward A. Grutzmacher and Madeline E. Miller argued for respondents. Cause submitted.

At 3:45 p.m., the court recessed until March 17, 2008, at 9:30 a.m.

C052705 VANACORE et al. v. HUCKABY
BY THE COURT

Respondents' petition for rehearing is denied.
BLEASE, Acting P.J.

C052479 THE PEOPLE v. JONES (Not For Publication)

The judgment is affirmed.
DAVIS, Acting P.J.
We Concur: Raye, J.
Cantil-Sakauye, J.

C052810 THE PEOPLE v. ESTAMPA (Not For Publication)

The judgment is affirmed.
DAVIS, Acting P.J.
We Concur: Raye, J.
Butz, J.

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C053535 THE PEOPLE v. REID (Not For Publication)

The judgment is affirmed.

ROBIE, J.

We Concur: Sims, Acting P.J.
 Nicholson, J.

**C056529 In re R.C.; SACRAMENTO COUNTY (Not For Publication)
DEPARTMENT OF HEALTH AND HUMAN
SERVICES v. A.C.**

The orders of the juvenile court denying appellant's petitions for
modification and terminating appellant's parental rights are affirmed.

CANTIL-SAKAUYE, J.

We Concur: Blease, Acting P.J.
 Morrison, J.

February 28, 2008

C046805 THE PEOPLE v. MCELROY (Not For Publication)

The upper term sentence for the firearm enhancement is reversed and
the matter is remanded to the trial court for resentencing consistent with
Sandoval. The judgment is otherwise affirmed.

BLEASE, Acting P.J.

We Concur: Hull, J.
 Butz, J.

C052133 THE PEOPLE v. WATSON (Not For Publication)

The trial court is directed to amend the abstract of judgment. ... and to
send a certified copy of the amended abstract to the Department of Corrections
and Rehabilitation.

BUTZ, J.

We Concur: Raye, Acting P.J.
 Morrison, J.

C052851 THE PEOPLE v. HARNED (Not For Publication)

The judgment is affirmed.

BUTZ, J.

We Concur: Davis, Acting P.J.
 Raye, J.

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- C053709 THE PEOPLE v. ROBINSON (Not For Publication)**
The judgment is affirmed.
BUTZ, J.
We Concur: Davis, Acting P.J.
Robie, J.
- C055259 THE PEOPLE v. MCCUTCHEON (Not For Publication)**
The judgment is affirmed.
BUTZ, J.
We Concur: Davis, Acting P.J.
- C052510 ZINNEL v. ZINNEL (Not For Publication)**
Father's motions to strike mother's brief and her appendix are denied, as we have disregarded any inappropriate portions of those materials. The child support order is affirmed. Steven K. Zinnel shall pay Michelle M. Zinnel's costs of this appeal.
MORRISON, J.
We Concur: Raye, Acting P.J.
Butz, J.
- C055129 ESSEX INSURANCE COMPANY (Not For Publication)**
v. SOVEREIGN GENERAL INSURANCE
The judgment of dismissal is affirmed. Sovereign General Insurance shall recover its costs on appeal. ...
SIMS, J.
We Concur: Blease, Acting P.J.
Hull, J.
- C056627 In re A.J.; SACRAMENTO COUNTY (Not For Publication)**
DEPARTMENT OF HEALTH AND HUMAN
SERVICES v. A.J., SR.
The order of the juvenile court terminating the parental rights of appellant is affirmed.
MORRISON, J.
We Concur: Blease, Acting P.J.
Cantil-Sakauye, J.

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C054210 In re LENNIE PARKER on Habeas (Not For Publication)
Corpus

The trial court's order vacating the Board of Parole Hearings' decision and directing the Board to reconsider the matter is affirmed.

The trial court's order is reversed insofar as it directs the Board of Parole Hearings to grant parole to Parker.

SIMS, Acting P.J.

We Concur: Raye, J.
 Butz, J.

C054725 CALIFORNIA FACULTY ASSOCIATION (Certified For Publication)
v. PUBLIC EMPLOYMENT RELATIONS
BOARD; TRUSTEES OF THE
CALIFORNIA STATE UNIVERSITY

To the extent the board dismissed the association's charge that the university violated HEERA when it prohibited employees from parking in newly built parking structures, the board's decision is set aside, and the board is directed to conduct further proceedings on that charge consistent with this opinion. Petitioner shall recover its costs. ...

ROBIE, J.

We Concur: Morrison, Acting P.J.
 Butz, J.

February 29, 2008

C042448 THE PEOPLE v. SLOAN (Not For Publication)

The judgment is affirmed.

MORRISON, J.

We Concur: Davis, Acting P.J.
 Hull, J.

C051333 THE PEOPLE v. BURCEA (Not For Publication)

The appeal in case No. 03F10812 is dismissed. In all other respects, the judgment is affirmed.

CANTIL-SAKAUYE, J.

We Concur: Blease, Acting P.J.
 Butz, J.

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- C052478 THE PEOPLE v. WEARY (Not For Publication)**
The judgment is affirmed. The trial court is directed to determine the defendant's true name and perform any necessary correction to its records.
SIMS, Acting P.J.
We Concur: Hull, J.
Robie, J.
- C052536 THE PEOPLE v. ELLIOTT (Not For Publication)**
The judgment is affirmed.
CANTIL-SAKAUYE, J.
We Concur: Blease, Acting P.J.
Davis, J.
- C053622 THE PEOPLE v. S.K. (Not For Publication)**
The judgment is affirmed.
SIMS, Acting P.J.
We Concur: Hull, J.
Robie, J.
- C054657 THE PEOPLE v. SPENCER (Not For Publication)**
The judgment is affirmed.
MORRISON, J.
We Concur: Blease, Acting P.J.
Cantil-Sakauye, J.
- C055901 THE PEOPLE v. GUNN (Not For Publication)**
Special condition No. 5 is modified to require that defendant "Totally refrain from the use or possession of any alcoholic beverages and not knowingly enter any place of business or location where alcohol is the primary item for sale or use." Special condition No. 38 is modified to require that defendant "Refrain from residing in a living environment that you know has not been approved by your probation officer as a clean and sober living environment." As so modified, the judgment (order of probation) is affirmed.
ROBIE, J.
We Concur: Nicholson, Acting P.J.
Butz, J.

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- C057012 THE PEOPLE v. FORMOSA (Not For Publication)**
The judgment is modified to impose a \$40 court security fee. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections and Rehabilitation.
CANTIL-SAKAUYE, J.
We Concur: Sims, Acting P.J.
 Morrison, J.
- C053877 THE PEOPLE v. LEXINGTON NATIONAL INSURANCE COMPANY (Not For Publication)**
The judgment is affirmed. Respondent shall recover its costs on appeal. ...
ROBIE, J.
We Concur: Morrison, Acting P.J.
 Butz, J.
- C054477 SARE v. ROSA (Not For Publication)**
The judgment is vacated. Rosa shall receive his costs on appeal. ...
SIMS, J.
I Concur: SCOTLAND, P.J.
I completely concur in the opinion of my colleagues and write separately only to point out that the conduct of the trial judge in granting the default judgment is inexcusable. The appellate courts should not be burdened by appeals from default judgments exceeding the demand of the complaint. The law is long settled and every trial judge in the state should be aware of it.
ROBIE, J.
- C054646 In re ALEX S. et al.; YUBA COUNTY HEALTH AND HUMAN SERVICES v. MINERVA C. (Not For Publication)**
The judgment is affirmed.
SIMS, Acting P.J.
We Concur: Raye, J.
 Robie, J.

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Court Minutes

February 29, 2008, continued

**C055056 CALIFORNIA CONSUMER HEALTH (Not For Publication)
CARE COUNCIL, INC., et al. v.
CALIFORNIA DEPARTMENT OF
MANAGED HEALTH CARE et al.**

The judgment is affirmed. The Department shall recover its costs on appeal. The Department's motion for sanctions is denied.

RAYE, J.

We Concur: Nicholson, Acting P.J.

Butz, J.

**C052927 BICHER v. THE SUPERIOR COURT OF (Not For Publication)
SACRAMENTO COUNTY; MEDICAL BOARD OF CALIFORNIA**

... The alternative writ is discharged and the petition for writ of mandate is denied. Costs in this proceeding are awarded to the Board. ...

NICHOLSON, Acting P.J.

We Concur: Raye, J.

Hull, J.

**C054675 JOHNSON v. JOHNSON
BY THE COURT:**

Appellant's letter dated February 25, 2008, is treated as a petition for rehearing and as such is denied.

SCOTLAND, P.J.